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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT TACOMA

8 FRANCES DU JU,

9 Plaintiff,

v.

10 STATE OF WASHINGTON, et al.,

11 Defendants.

CASE NO. C17-6082 BHS

ORDER DISMISSING
COMPLAINT AND RENOTING
MOTION TO PROCEED *IN*
FORMA PAUPERIS

12
13 This matter comes before the Court on Plaintiff Frances Du Ju's ("Plaintiff")
14 motion to proceed *in forma pauperis* (Dkt. 1) and proposed complaint (Dkt. 1-1).

15 On December 29, 2017, Plaintiff filed the instant motion and proposed complaint.
16 *Id.* Plaintiff's claims are based on factual allegations involving the foreclosure and
17 eviction from her home. In June of 2013, Plaintiff's home was sold at a foreclosure sale.
18 Dkt. 1-1, ¶ 4.5. In July of 2013, Defendant John O'Neill filed an unlawful detainer action
19 in Clark County Superior Court. *Id.* ¶ 4.6. The court issued a writ, and the sheriff was
20 asked to enforce the writ by removing Plaintiff from her home. *Id.* ¶¶ 4.7–4.9. The
21 sheriff arrested Plaintiff and booked her into jail. *Id.* ¶¶ 4.9–4.10. Plaintiff was
22 appointed counsel, and the case proceeded to a jury trial with the jury returning a verdict

1 of guilty. *Id.* ¶¶ 4.14–4.20. The court sentenced Plaintiff to ten days of community
2 service. *Id.* ¶ 4.20. Plaintiff unsuccessfully appealed the conviction and sentence
3 through the state courts and eventually to the United States Supreme Court. *Id.* ¶¶ 4.23–
4 4.28. It seems that Plaintiff failed to complete her sentence of community service, and
5 the City of Vancouver police arrested her. *Id.* ¶ 4.45. Plaintiff spend four days in jail and
6 asserts that the conditions of confinement violated her rights. *Id.* ¶¶ 4.45–4.50. After
7 Plaintiff was released from jail, the Clark County Superior Court altered her sentence to
8 time served and removed probation requirements. *Id.* ¶¶ 4.51–4.52. Based on these
9 allegations, Plaintiff asserts ten causes of action ranging from constitutional violations to
10 violations of the code of judicial conduct. *Id.* ¶¶ 5.1–13.3.

11 The district court may permit indigent litigants to proceed *in forma pauperis* upon
12 completion of a proper affidavit of indigency. *See* 28 U.S.C. § 1915(a); W.D. Wash.
13 Local Rules LCR 3(b). However, the “privilege of pleading *in forma pauperis* . . . in
14 civil actions for damages should be allowed only in exceptional circumstances.” *Wilborn*
15 *v. Escalderon*, 789 F.2d 1328 (9th Cir. 1986). The court has broad discretion in denying
16 an application to proceed *in forma pauperis*. *Weller v. Dickson*, 314 F.2d 598 (9th Cir.
17 1963), *cert. denied* 375 U.S. 845 (1963). In this case, Plaintiff’s affidavit and *in forma*
18 *pauperis* application show an inability to prepay fees and costs. *See* Dkt. 1.

19 However, even if a party satisfies the financial requirements for eligibility to
20 proceed *in forma pauperis*, the Court’s review of the application and underlying
21 complaint is not complete. Under the *in forma pauperis* statute, the Court must dismiss
22 the case *sua sponte* if it determines at any time that (1) the allegation of poverty is untrue,

1 (2) the action is frivolous or malicious, (3) the complaint fails to state a viable claim, or
2 (3) the action seeks monetary relief against an immune defendant. 28 U.S.C. §
3 1915(e)(2).

4 In this case, Plaintiff's complaint fails to state viable claims on some issues, seeks
5 monetary relief against numerous immune defendants, and is frivolous in some instances.
6 First, Plaintiff may not state a claim under federal criminal statutes, the state court rules,
7 the rules of professional conduct, the code of judicial conduct, or former President
8 Obama's convention speech. Therefore, the Court dismisses with prejudice Plaintiffs'
9 second, third, sixth, seventh, eighth, and ninth causes of action.

10 Second, Plaintiffs asserts claims against defendants that are immune from suit.
11 Judges and courts are entitled to absolute judicial immunity. *Stump v. Sparkman*, 435
12 U.S. 349, 356 (1978). Similarly, prosecutors are entitled to absolute prosecutorial
13 immunity, *Imbler v. Pachtman*, 424 U.S. 409, 418 (1976), and public defenders are not
14 state actors for purposes of 42 U.S.C. § 1983, *Polk Cty. v. Dodson*, 454 U.S. 312, 325
15 (1981). Therefore, the Court dismisses with prejudice all courts and prosecutors as
16 defendants and dismisses all constitutional claims against all public defenders.

17 Third, Plaintiff's claims based on alleged erroneous state-court rulings are barred.
18 The *Rooker-Feldman* doctrine bars "cases brought by state-court losers complaining of
19 injuries caused by state-court judgments rendered before the district court proceedings
20 commenced and inviting district court review and rejection of those judgments." *Exxon*
21 *Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280, 284 (2005). Although it is not
22 clear in her claims, Plaintiff does seek the relief of vacating her state-court judgment and

1 expungement of her state-court criminal record. Any claim based on these ruling and/or
2 seeking such relief are barred by the *Rooker–Feldman* doctrine.

3 Finally, for the remaining claims, Plaintiff fails to state viable claims. For
4 example, Plaintiff only states the text of the constitutional amendments in her first cause
5 of action. *See* Dkt. 1-1, ¶¶ 5.1–5.6. Such a vague pleading violates the federal rules of
6 procedure that require “a short and plain statement of the claim showing that the pleader
7 is entitled to relief.” Fed. R. Civ. P. 8(a)(2). Without stating which defendant violated
8 what right, Plaintiff has failed to show that she is entitled to any relief. Therefore, the
9 Court dismisses the remainder of Plaintiff’s claims.

10 The remaining question is whether Plaintiff should be allowed leave to amend.
11 “[A] district court’s denial of leave to proceed *in forma pauperis* is an abuse of discretion
12 unless the district court first provides a plaintiff leave to amend the complaint or finds
13 that amendment would be futile.” *Rodriguez v. Steck*, 795 F.3d 1187, 1188 (9th Cir.
14 2015). In this case, the Court is unable to conclude that any amendment would be futile.
15 Plaintiff may have conditions of confinement claims that are within the statute of
16 limitations and have not been brought in any other action. Therefore, the Court
17 **GRANTS** Plaintiff leave to amend her complaint. An amended complaint shall be filed
18 no later than February 16, 2018 and shall comply with this order. Failure to file an
19 amended complaint will result in **DISMISSAL**. The Clerk shall also renote Plaintiff’s
20 motion for consideration on the Court’s February 16, 2018 calendar.

IT IS SO ORDERED.

Dated this 18th day of January, 2018.

A handwritten signature in black ink, appearing to read "Benjamin H. Settle", written over a horizontal line.

BENJAMIN H. SETTLE
United States District Judge